

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RUSSELL H. FRYE,	)	Case No. 06-5399 SC
	)	
Plaintiff,	)	
	)	ORDER GRANTING
v.	)	DEFENDANTS' MOTION
	)	FOR ORDER SHORTENING
THE WINE LIBRARY, INC., a	)	TIME TO FILE AND HEAR
California Corporation; EDWARD	)	MOTION TO STRIKE
GELSMAN, an individual; and CARL	)	PLAINTIFF'S EXPERT
GELSMAN, an individual,	)	<u>WITNESS DISCLOSURE</u>
	)	
Defendants.	)	
	)	
	)	

**I. INTRODUCTION**

This matter comes before the Court on the Motion for Order Shortening Time to File and Hear Motion to Strike Plaintiff's Expert Witness Disclosure ("Motion"), filed by the defendants The Wine Library, Edward Gelsman and Carl Gelsman ("Defendants"). See Docket No. 35. The plaintiff Russell Frye ("Plaintiff") filed a Statement of Non-Opposition to Defendants' Motion for Order Shortening Time to File and Hear Motion to Strike Plaintiff's Expert Witness Disclosure ("Statement"). See Docket No. 48. For the following reasons, the Court GRANTS Defendants' Motion.

**II. BACKGROUND**

The current action is scheduled to begin trial on January 14, 2008. See Civil Minutes, Docket No. 26. The discovery cutoff was November 2, 2007. Id. The last day to hear motions is December

1 7, 2007. Id. October 30, 2007, was the deadline for expert  
2 disclosures, pursuant to Federal Rule of Civil Procedure 26. See  
3 Mot. at 2. Defendants filed a Motion for Summary Judgment on  
4 November 2, 2007. See Docket No. 28. Plaintiff allegedly then  
5 attempted to serve a Rule 26 Expert Disclosure and Expert Report  
6 on November 8, 2007. Mot. at 3.

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8 **III. DISCUSSION**

9 Defendants seek to have their Motion to Strike Plaintiff's  
10 Expert Disclosure ("Motion to Strike") heard on December 7, 2007.  
11 Plaintiff does not oppose this. See Statement at 2. Therefore,  
12 the Court will hear Defendants' Motion to Strike on December 7,  
13 2007. At that time the Court will also address the previously  
14 scheduled Motion for Summary Judgment, filed by Defendants, and  
15 Plaintiff's Motion for Leave to Amend Complaint. See Docket Nos.  
16 28, 29.

17 Defendants have submitted a copy of their Motion to Strike as  
18 an attachment with their Motion for Order Shortening Time.  
19 Plaintiff shall file any Opposition to Defendants' Motion to  
20 Strike no later than Friday, November 30, 2007, at 12:00 p.m.  
21 Defendants shall file any Reply no later than Tuesday, December 4,  
22 2007, at 12:00 p.m.

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1 **IV. CONCLUSION**

2 For these reasons, Defendants' Motion for Order Shortening  
3 Time to File and Hear Motion to Strike Plaintiff's Expert Witness  
4 Disclosure is GRANTED.

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7 IT IS SO ORDERED.

8 Dated: November 27, 2007



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10 UNITED STATES DISTRICT JUDGE